IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA	)	
	)	
v.	)	1:19CR245-1
	)	1:19CR245-2
LUIS ENRIQUE FLORES-SANCHEZ	)	
EDUARDO GOMEZ-BARRAGAN	)	

ORDER

Defendants have filed motions to suppress, (Docs. 21, 22), and the Government has responded, (Doc. 25). On September 10, 2019, this court held a hearing on the motions to suppress. (Minute Entry 09/10/2019.) The Government presented the testimony of Andy Avery, a Master Police Officer with the Thomasville Police Department. Following that hearing, this court allowed the Government ten days to file a supplemental brief and thereafter provided Defendants with an opportunity to respond. The parties filed those briefs. (Docs. 28, 32, 33.)

Following the evidence and argument on September 10, 2019, this court made findings with respect to the length of the detention. Specifically, this court found Officer Avery's testimony credible with respect to the facts occurring after the stop of the vehicle and, as a result, this court found that Officer Avery's investigation was reasonable from the time he

approached the gold Tahoe after making the stop until the arrest of Defendants. (Tr. 09/10/2019 Pt. 2 (Doc. 30) at 2–5.) Those circumstances, beginning with the fact Defendant Luis Enrique Flores-Sanchez did not have a driver's license, but instead handed the officer a ticket, and neither occupant of the vehicle could provide a valid driver's license, suggested that any prolonging of the stop for investigative purposes was reasonable under the totality of the circumstances. (Id.) Officer Avery's actions following the stop were reasonably related to the circumstances developing after the stop took place. "If a police officer wants to detain a driver beyond the scope of a routine traffic stop, . . . he must possess a justification for doing so other than the initial traffic violation that prompted the stop in the first place." United States v. Branch, 537 F.3d 328, 336 (4th Cir. 2008). Officer Avery had ample justification to extend this stop beyond the scope of a routine traffic stop.

However, the court at that same time expressed reservations and concerns as to the basis of the original stop. (Tr. 09/10/2019 Pt. 2 (Doc. 30) at 6–11.) Specifically, the conflicting descriptions of whether the driver of the gold Tahoe crossed the line, hit the line, or otherwise committed a traffic violation under North Carolina law were of concern to this court. (Id. at 7–9.) As a result, the court permitted the

Government additional opportunity to brief those issues. (Id. at 12–13.)

For the second time in this case, (see Order (Doc. 24); Text Order 09/24/2019), the Government failed to file a timely response in this case. Although the response was untimely, in the absence of any objection from Defendants, this court has considered the Government's arguments. The Government's motion to accept the late filing will be allowed.

After consideration of the testimony, the arguments, and the briefs, this court finds Defendants' motions to suppress should be granted. This court finds the officer's present testimony — that the gold Tahoe crossed the fog line three times — inconsistent with his contemporaneous comment that the gold Tahoe "hit" the line three times. Because this court finds those statements are inconsistent, this court finds the officer's recollection has been impeached and this court is unable to conclude what occurred with respect to the tires of the gold Tahoe in relation to the fog line or traffic line. As a result, this court cannot say what fact, in relation to the driving, might have provided a particularized, objective suspicion, or probable cause to believe a crime was committed sufficient to permit a stop of the vehicle.

With respect to the initial stop of the gold Tahoe on June 14, 2018, this court makes the following findings of fact:

1. On June 14, 2018, Defendant Luis Enrique Flores-Sanchez ("Flores-Sanchez") and Eduardo Gomez-Barragan ("Barragan") were operating a gold Tahoe on Interstate 85. Sanchez was driving and Barragan was a passenger in the front seat. Both the driver and the passenger in an automobile have standing to challenge a traffic stop. Brendlin v. California, 551 U.S. 249, 263 (2007).

2. Officer Avery testified on September 10, 2019, that he was on patrol on Interstate 85 around Mile Marker 101. (Tr. 09/10/2019 Pt. 1 (Doc. 27) at 7.)

3. Officer Avery conducts traffic stops as part of an interdiction team. (Id. at 4.) Officer Avery has participated in drug seizures daily on the highway, money has been seized every three months or so, and firearms are seized weekly. (Id. at 5–6.) In addition, he has typically dealt with fraud, driver's license violations, and fake credit cards. (Id. at 6.)

4. On June 14, 2018, Officer Avery was wearing a body-worn video camera that was working on that date. His patrol vehicle has a dash cam; however, it was not working on that date. (Id.)

5. Around 10:52 a.m., Officer Avery came in contact with the vehicle occupied by Defendants. (Id. at 8.)

6. Officer Avery testified that the gold Tahoe was traveling in the far-left lane. Officer Avery described the stop:

> As I was running his registration plate, I caught him about the 102; and within the 102 to the 104, he came outside of the left side of the highway off the -- over the yellow line approximately three times. His inside tread on his left -- on his driver's side tires was outside the yellow line, and then he would drift back into the travel lane. When he would drift outside the yellow line, he would travel about 10 yards, and then he would drift back in. He also slowed down between 60 and 64 continuous speed until I finally activated my lights, and sirens at Mile Marker 104 is when we finally stopped.

(Id. at 9.)

7. Officer Avery further explained that the driver of the gold Tahoe "crossed the yellow line towards the rumble strips" three different times. (Id. at 11.)

8. Officer Avery testified that he asked Defendant Flores-Sanchez, the driver, why he "crossed the yellow line." (Id. at 22.)

9. After Officer Avery testified from his recollection of the events on June 14, 2018, the video from Officer Avery's body camera was introduced as Government Exhibit 2. (Id. at 33–34.) The video was played during the hearing.

10. During the video and prior to the stop, Officer Avery can be heard making comments as he observed the gold Tahoe.

Officer Avery commented as follows: "A silverish Tahoe . . . hit the yellow line three times." (Gov't Ex. 1.) This court finds these statements are of significant weight in evaluating the evidence and testimony. See, e.g., Fed. R. Evid. 803(1)-(2).

> That sort of contemporaneous report has long been treated as especially reliable. In evidence law, we generally credit the proposition that statements about an event and made soon after perceiving the event are especially trustworthy because "substantial contemporaneity of event and statement negate the likelihood of deliberate or conscious misrepresentation."

Navarette v. California, 572 U.S. 393, 399-400 (2014).

11. Later, as seen on the videotape, while questioning Defendant Sanchez during the stop, Officer Avery commented that Sanchez "came over the top of the yellow line - [he] rode on it - then came back." (Gov't Ex. 1.) He also asked Flores-Sanchez whether there was any "reason why you hit the line?" (Id.) This is inconsistent with his testimony that he asked Flores-Sanchez why he crossed the line.

12. On cross-examination, Officer Avery was asked specifically about what he meant when he was narrating prior to the stop:

> Q And when you narrate the reason for your stop at minute 216, you say he hit the yellow line 3 times.
>
> A Yes.

Q Meaning he didn't cross the yellow line?

A No. When I narrate for the camera, it's just so that, for one, I can go back and see which video it is.

Q Meaning he didn't cross the center line?

A No, that doesn't -- it just means he hit the line.

Q Meaning he hit the line, correct?
A Yes.

Q So he did not cross the center line –

A He rode on –

Q -- cross the fog line.

A He rode on the fog line, yes.

(Tr. 09/10/2019 Pt. 1 (Doc. 27) at 57.)

13. Later, on cross-examination after viewing the video of the traffic stop, Officer Avery admitted that he told Defendant Sanchez that he "hit the yellow line three times," and he never told him "that he crossed the yellow line." (Id. at 65.) Previously, on direct examination, Officer Avery had been asked about his conversation with Defendant Sanchez and whether he talked to Sanchez about crossing the yellow line:

Q During the course of the questions that you asked while Mr. Flores was in your patrol vehicle, did you talk to him about the fact that you were going to give him a warning for crossing the yellow line?

A Yes, sir.

Q Did you ask him why he crossed the yellow line?

A I did.

Q Why did you ask that?

A Just to make sure that he wasn't, A, been drinking or been tired, or maybe there's something wrong with his vehicle, just a reasoning for the traffic offense.

Q And what did Mr. Flores say as to why he crossed the yellow line?

A He said that he didn't know. He was just sleepy.

(Id. at 22.) Officer Avery did not explain why he may have recalled, on direct examination, that he asked Defendant why "he crossed the yellow line." However, the videotape confirms Officer Avery spoke to Defendant Sanchez, alternatively about why he "came over . . . rode on top of the yellow line," and then later, "any reason why you 'hit' the line." (Gov't Ex. 1.) This court does not assign any improper motive to any inconsistency in Officer Avery's testimony as to his recollection of what he asked Defendant Sanchez. However, the inconsistency between "hit" and "crossed" is significant in weighing the reliability of Officer Avery's recollection during his testimony of what he said to Defendant Sanchez as compared to the statements recorded on the video.

14. On redirect examination, Officer Avery was asked again about his earlier testimony:

> Q Officer Avery, in response to some of Ms. Clough's questions related to the traffic stop itself, the left side tires of the vehicle, is it your testimony that they crossed onto the yellow line, that is, for lack of a better term, the center line for the highway?
>
> A Yes, sir.
>
> Q Okay. And that the inside of that left tire actually went to the outside of the part of the line, that is, the center line, is that right?
>
> A Yes, sir.
>
> Q On three different occasions?
>
> A Yes, sir.

(Tr. 09/10/2019 Pt. 1 (Doc. 27) at 104.)

15. After observing Officer Avery's testimony and further reviewing that testimony, this court is simply not able to make a finding as to what Officer Avery observed with respect to whether the driver of the gold Tahoe crossed the fog line, hit the line, rode on the line, or something else.

As an objective matter, there is a significant factual difference between hitting a traffic line, touching a traffic line, riding on a traffic line, and crossing a traffic line. The distinctions between those statements of fact are something the court finds significant in determining the facts. This court is

not able to find that "hitting" and "crossing" a line refer to the same conduct, whatever Officer Avery may have meant by "hitting the line."

Officer Avery's dash cam was not working and there is no way for Officer Avery to refresh his recollection as to the details of this traffic stop other than through the body camera video or perhaps any notes he may have referred to while testifying. Nothing in his testimony or in the video explains why Officer Avery used the term "hit the line" as opposed to "cross the line" as he initially testified on direct examination. The body camera video does not show what the gold Tahoe was doing, and no notes of Officer Avery were referred to or introduced into evidence.

As a subjective matter, this court did not feel confident after observing Officer Avery's demeanor when responding to questions about "hitting" the line on cross-examination. Officer Avery did not explain, at least sufficiently to allow this court to understand, why he may have used the term "hit" the line as opposed to "crossed" the line during his contemporaneous statements. Nor does this court find Officer Avery's question to Defendant about "coming over the line" to offer a reliable explanation of why he may have used the term "hit the line" while observing the gold Tahoe, or whether "coming over the

line" means crossed, touched, rode on, or perhaps something else.

Officer Avery testified that he makes drug seizures daily, firearm seizures weekly, and currency seizures periodically. (Id. at 5–6.) This traffic stop occurred on June 14, 2018. This hearing was held on September 10, 2019. Assuming, conservatively, with consideration to days off, days in court, and holidays, that Officer Avery has patrolled the equivalent of three days a week, then Officer Avery has participated in at least 192 seizures since the stop and seizure in this case. This court commends the officer for his diligence in that regard. On the other hand, the reality is that over a period of months, memories can fade and lose accuracy as to the details of any particular stop.

That being said, this court simply cannot reconcile "hit the line" with "crossed the line." Nothing appears in the record to explain any discrepancy between "hit" and "crossed." Much to Officer Avery's credit in terms of his credibility, he appeared to recognize that hitting the line was different from crossing the line and he did not try to deny that obvious discrepancy. (See Tr. 09/10/2019 Pt. 1 (Doc. 27) at 57 ("Q Meaning he didn't cross the center line? A No, that doesn't -- it just means he hit the line.").)

Although this court has concerns about the reliability of Officer Avery's recollection in this instance, Officer Avery's recollection as to the details of what occurred after the traffic stop can be confirmed by review of the video from the body-worn camera. Thus, while his testimony is inconsistent as to what he stated to, and asked of, the driver, the details of the facts resulting in extension of the traffic stop can be corroborated through the body camera video. Those facts, therefore, are believable and persuasive as to the activity that took place during that time, unlike the facts which led to the stop, which cannot be corroborated nor can any differences between the testimony and contemporaneous statements be explained.

The Government argues that Officer Avery "confirmed" that the vehicle crossed the center line while testifying on redirect. (Doc. 28 at 3.) This court agrees that Officer Avery testified to that fact, but this court does not find that "confirmation" of his previous testimony to provide reliable evidence that he did in fact see that nor does that testimony explain the discrepancy between "crossing" and "hitting."

16. This court concludes, as a factual matter after hearing the testimony, that it is simply unable to say with any certainty what Officer Avery may have seen that caused him to

stop the gold Tahoe. This court finds that Officer Avery's recollection has been impeached as to his recollection of what traffic violation, if any, he may have observed. If the court were to find that the tires "crossed" the fog line, then this court is unable to determine why Officer Avery might have contemporaneously described the Tahoe as "hitting" the line. If this court were to find that the Tahoe "hit" the line, this court is unable to determine what that description means; this court is also unable to determine why Officer Avery testified the Tahoe "crossed" the line.

This court finds Officer Avery to be a credible witness, meaning one who is testifying to the best of his recollection. However, this court also finds that his testimony that the gold Tahoe crossed the line is not consistent with his contemporaneous statements that the gold Tahoe "hit" the line immediately prior to pulling over the gold Tahoe. As noted above, with a conservative estimate of 192 stops and seizures since the stop in this case, and no video or notes available to help clarify any discrepancies in recollection of events occurring over a year before this hearing, it is not remarkable that on occasion the facts of a particular stop might be difficult to reconstruct. This court is thus unable to credit Officer Avery's current recollection.

17. The Government argues that even if the gold Tahoe "touched the line," that act constitutes a traffic violation or at least a reasonable belief that a violation occurred. This court is not persuaded under North Carolina law that a simple "touching" of the line constitutes a traffic violation. See, e.g., State v. Peele, 196 N.C. App. 668, 674–75, 675 S.E.2d 682, 687 (2009) ("At most, the officer saw defendant on a single occasion float to the dotted and line and then float back to the fog line."). Nevertheless, this court does not find it necessary to reach that issue.

This court is unable to determine as a matter of fact what Officer Avery may have seen on June 14, 2018, with respect to a possible traffic violation for the reasons stated above. In addition, while this court finds an argument that the gold Tahoe "touched the line" is more consistent with an excited utterance of "hit the line," such a finding suggests Officer Avery is at least mistaken in his testimony that the vehicle "crossed the line." Should this court find as a fact that Officer Avery observed the gold Tahoe "touch the line," but not "cross the line," that fact places the court in an untenable position of speculating as to what Officer Avery may have meant by hitting the line. Furthermore, this court is simply not able to explain why, if the vehicle only touched the line, Officer Avery would

testify in this court that the tires "crossed the line," a fact contrary to a finding that the tires of the gold Tahoe merely touched the line.

18. This court is not able to find what Officer Avery may have seen in terms of a traffic violation. The facts this court does credit — that Defendants were driving below the speed limit in the left lane but not impeding traffic, the driver looking straight ahead and sitting up in the seat with arms locked, are not sufficient to establish reasonable suspicion for a traffic stop for the reasons set forth below.

I. ANALYSIS

A traffic stop is a seizure within the meaning of the Fourth Amendment. Whren v. United States, 517 U.S. 806, 809–10 (1996). In order to pass constitutional muster, the traffic stop "must be justified by probable cause or a reasonable suspicion, based on specific and articulable facts, of unlawful conduct." United States v. Hassan El, 5 F.3d 726, 729 (4th Cir. 1993). An officer's observation of a traffic violation, no matter how minor, provides probable cause to stop the driver. Id. at 730.

In the absence of evidence to support a finding of probable cause to believe a traffic violation was committed, this court turns to the question of whether the observations by the officer are sufficient to establish reasonable suspicion. The testimony

as to these facts can be observed, at least in part, by the body camera worn by the officer. Officer Avery observed a gold Tahoe pass him in the far-left lane. (Tr. 09/10/2019 Pt. 1 (Doc. 27) at 9.) The driver had his arms locked out; he was sitting in a rigid position looking straight ahead. (Id.) The driver slowed down "as he coasted by" the officer. (Id.) As the officer followed the gold Tahoe, the vehicle slowed to between 60 and 64 MPH continuous speed. (Id.) There were no cars behind the gold Tahoe and the driver was not impeding the flow of traffic. (Id. at 65.) These facts, standing alone, are not sufficient to provide reasonable suspicion to stop a motor vehicle. See United States v. Foster, 634 F.3d 243, 247–48 (2011) ("[A]n officer and the Government must do more than simply label [behaviors] as 'suspicious' to make it so. The Government must also be able to either articulate why a particular behavior is suspicious or logically demonstrate, given the surrounding circumstances, that the behavior is likely to be indicative of some more sinister activity than may appear at first glance.").

While Officer Avery did state that he intended to write a warning ticket for crossing the line, Officer Avery explained that he quickly advised that he would be issuing a warning ticket "so that their nervousness should come down to a normal level." (Tr. 09/10/2019 Pt. 1 (Doc. 27) at 17.) This court is

not persuaded, after considering all the testimony, that the statement of a warning ticket for crossing the line alternating between statements of why did you "hit" the line or "ride on" the fog line clarifies the evidence in this case.

The Government, relying on the attenuation doctrine as explained in Utah v. Strieff, ____ U.S. ____, 136 S. Ct. 2056 (2016), contends the attenuation doctrine should apply to render the seized narcotics admissible. (Doc. 28 at 7.) The Government argues that even if the initial stop was unlawful, Officer Avery verified the driver, Flores-Sanchez, did not have a license and therefore possessed independent grounds for arrest. (Id. at 10.) That new crime would prohibit the vehicle from being driven away and, therefore, subject to an open-air sniff of the Tahoe by a canine. (Id. at 10-11.)

In Strieff, the Court explained that "even when there is a Fourth Amendment violation, [the] exclusionary rule does not apply when the costs of exclusion outweigh its deterrent benefits. In some cases, for example, the link between the unconstitutional conduct and the discovery of the evidence is too attenuated to justify suppression." 136 S. Ct. at 2059. Under the attenuation doctrine, "[e]vidence is admissible when the connection between unconstitutional police conduct and the evidence is remote or has been interrupted by some intervening

circumstance, so that 'the interest protected by the constitutional guarantee that has been violated would not be served by suppression of the evidence obtained.'" Id. at 2061 (quoting Hudson v. Michigan, 547 U.S. 586, 593 (2006)).

To determine whether an intervening event — in this case the fact that neither of the occupants of the Tahoe had a valid driver's license — is sufficient to break the causal chain between an unlawful stop and discovery of evidence, three factors guide the analysis. Id. at 2061-62. Those three factors are:

> [f]irst . . . the "temporal proximity" between the unconstitutional conduct and the discovery of evidence to determine how closely the discovery of evidence followed the unconstitutional search. Second, [a court] consider[s] "the presence of intervening circumstances," [and] [t]hird, and "particularly" significant, [the court] examine[s] "the purpose and flagrancy of the official misconduct."

Id. at 2062 (quoting Brown v. Illinois, 422 U.S. 590, 603-04 (1975)).

As found in Strieff, here "[t]he first factor, temporal proximity between the initially unlawful stop and the search, favors suppressing the evidence. [Supreme Court] precedents have declined to find that this factor favors attenuation unless 'substantial time' elapses between an unlawful act and when the evidence is obtained." Id. Here, only minutes elapsed between

the stop of the vehicle and Officer Avery's discovery that neither of the occupants of the vehicle had a driver's license. This factor weighs in favor of suppression.

The second factor, intervening circumstances, also favors suppression. Id. Unlike Strieff, here there is no circumstance unrelated to the unconstitutional stop authorizing the request by Officer Avery for a driver's license. The request here arose solely as a result of the stop. In United States v. Sprinkle, the Fourth Circuit held that "[i]f a suspect's response to an illegal stop 'is itself a new, distinct crime, then the police constitutionally may arrest the [suspect] for that crime.'" 106 F.3d 613, 619 (4th Cir. 1997) (quoting United States v. Bailey, 691 F.2d 1009, 1017 (11th Cir. 1982)). While it is indisputable that following the stop, Officer Avery discovered a new, previously unknown crime, that offense is not distinct from the stop. It was a continuation of the stop, not an attenuation of the stop, and the fact that neither occupant of the Tahoe had a driver's license was a direct result of this stop, not the result of Defendants' subsequent illegal behavior in the presence of the officer. Here, the causal chain between the unlawful stop and discovery of additional illegal activity remains intact. A district court in Maryland, considering the

attenuation doctrine and Sprinkle under similar circumstances, cogently explains:

> [T]he Court finds it would be "sheer fiction" to find that Defendant's presentation of fraudulent identification to police was caused by anything other than the illegal traffic stop. Providing one's name and license is the most fundamental element of a traffic stop. There were absolutely no intervening circumstances, and no lapse of time between the stop and the alleged "new crime." In any event, "[t]he 'new crime' exception is inapplicable when the defendant's response to the police illegality is not itself criminal but merely exposes an ongoing crime," such as possession of an illegal substance or other contraband. Were the Court to extend Sprinkle to this factual scenario, such that evidence derived from an unconstitutional stop could in and of itself be the intervening event that purges the taint of a Fourth Amendment violation, it would entirely eviscerate the fruit of the poisonous tree doctrine.

United States v. Burke, 605 F. Supp. 2d 688, 700–01 (D. Md. 2009) (quoting Wayne R. LaFave, Search and Seizure: A Treatise on the Fourth Amendment § 11.4(j) (4th ed. 2004)). The court there concluded that the defendant's presentation of a fraudulent driver's license was "dramatically different in kind from the types of criminal behaviors that courts have found to constitute intervening circumstances," and that the "presentation of the license was a direct and inevitable result of the illegal stop, and c[ould not] be considered untainted by the constitutional violation." Id. at 701.

The Government's argument goes one step further than Burke to argue that it is not simply the absence of a driver's license but also the fact that neither Defendant could drive the car and, therefore, the car would have been compelled to remain at the scene of the stop, subject to a canine sniff. While perhaps true, there remains no intervening event to stop the sniff.

The third factor, the purpose and flagrancy of the official misconduct, see Strieff, 136 S. Ct. at 2063, is mixed. First, the Government bears the burden of establishing that law enforcement had probable cause for a stop, see, e.g., United States v. Basinski, 226 F.3d 829, 833 (7th Cir. 2000); United States v. Burke, 605 F. Supp. 2d at 693, and officers should be well aware that they may be called upon in the future to provide a credible explanation for the basis of a vehicle stop. An officer's inability to discharge that responsibility by recalling accurately at a hearing what occurred, or at least explain inconsistencies, causes this fact to weigh against the Government. As the court said in Burke, to find this factor weighs in favor of the Government would require the court to find that

> in spite of its conclusion that the Government has not met its burden of establishing probable cause for the traffic stop, there was, in actuality, probable cause for the stop that just could not be demonstrated [15

> months later] on the record . . . . This is a leap of logic that the Court cannot, and will not, make.

Burke, 605 F. Supp. 2d at 704.

Second, the fact that the dash camera was not working is of concern to this court. No explanation was offered as to why that camera may not have been operational. The benefit to an operational dash camera — assistance in recording for the future what occurred — would have been of assistance in this case. There is no question that probable cause and reasonable suspicion can be established by credible testimony of an officer without regard to dash camera footage, and sometimes in spite of the footage. However, to inexplicably send an officer out without an operating dash camera is a cause for concern, particularly where, as here, an officer may be expected months later to reconstruct a stop. An unexplained inoperable dash camera therefore only heightens concerns about the facts which may be subject to some ambiguity. If these traffic stops are, as described, occurring daily, the absence of dash cam video to refresh recollections and assist in maintaining an accurate record of one particular stop is troubling.

Third, as explained above, while the evidence is not sufficient to support a finding by this court as to the accuracy of Officer Avery's recollection, the testimony and evidence are

also not sufficient to suggest bad faith on Officer Avery's part. This is not a case where the court can say with any authority that probable cause did not exist at the time of the stop, rather, this court finds only that the Government and law enforcement have not been able to prove, under any standard, what facts lead to the stop. This fact mitigates, slightly, a concern over flagrancy as to the stop itself.

After consideration of all the factors, this court nevertheless finds the attenuation doctrine does not apply to render the evidence seized admissible. The time between the unconstitutional stop and the discovery of additional criminal activity was short, there was no intervening activity distinct from the stop itself, and even if the flagrancy of the violation weighs in favor of the Government, it was not sufficient to overcome the absence of an intervening activity.

This court is not able to conclude that probable cause existed to permit Officer Avery to conduct a traffic stop of the gold Tahoe operated by Defendant Flores-Sanchez on June 14, 2018, because of a traffic violation. This court further finds, in the absence of either probable cause or reasonable suspicion to believe a traffic offense had been committed, that there was no reasonable suspicion to believe criminal activity was

occurring to support a Terry stop. This court therefore finds the motion to suppress should be granted.

IT IS HEREBY ORDERED that Defendants' motions to suppress, (Docs. 21, 22), are **GRANTED.**

This the 10th day of October, 2019.

William L. Osteen, Jr.
United States District Judge